

Memorandum

TO: Debra Figone
SUBJECT: APPLICATION FOR FEDERAL ASSISTANCE

FROM: John Stufflebean
DATE: July 17, 2009

Approved



Date 7/23/09

RECOMMENDATION

Sign the attached "Application for Federal Assistance for Phase 1C - San José Area Water Reclamation and Reuse Program" requesting preparation of a Cooperative Agreement with the US Bureau of Reclamation for receipt of funds authorized under Section 1607 of Title XVI of PL102-575 and appropriated under the terms of the American Recovery and Reinvestment Act (ARRA).

BACKGROUND

In March 2009 the US Bureau of Reclamation solicited requests for funding from programs authorized by Title XVI of PL102-575 for construction of new water reclamation and reuse projects. The selected projects would receive federal funding from a total of \$126 million appropriated for this purpose by American Recovery and Reinvestment Act of 2009 (P.L. 111-5). Projects submitted for consideration were reviewed on the basis of a number of criteria including speed of project implementation, completion of a program phase or provision of a useful service and availability of funding to satisfy an outstanding federal cost-share.

Following the City of San José's Stimulus Funding Workshop, in April 2009 the City submitted detailed descriptions of recycled water projects with a total cost of \$25.8 million that could be completed within two years under the terms of the ARRA funding program. Some projects are already budgeted and are included in the City's 5-Year Capital Program, while others still require Council and TPAC approval. On July 1, 2009 the Bureau of Reclamation announced an offer to award the City \$6.46 million towards construction of new water recycling projects. Also, since the City has not yet received all of the federal funds authorized for prior work, up to \$3.3 million of the \$6.46 award may be used to reduce the local match required for construction of ARRA projects in lieu of reimbursement for past work, increasing the federal share above the usual 25% limit.

ANALYSIS

The attached "Application for Federal Assistance for Phase 1C - San José Area Water Reclamation and Reuse Program" initiates the City's request to enter into a new Cooperative Agreement with the US Bureau of Reclamation to receive federal funds appropriated by the ARRA program. for design and construction of the following extensions to the South Bay Water Recycling system:

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Project Name	Description	Cost (\$M)	Est. Finish*
San Jose Airport Extension	Approx. 4500 LF of 12-inch serve 75 AFY to Mineta-San Jose International Airport cooling, irrigation, toilet flushing and carwashes.	1.72	4/10
SBWR Laterals and Garden Improvements	Approx. 1500 LF of 6-in. to 12-in. diameter pipe to serve 100 AFY to an expanded community garden, civic buildings and various access points throughout the SBWR service area.	0.98	12/10
San Jose School Extensions	Approx. 1800 LF of 6-inch diameter to serve 75 AFY to four schools in central and south San Jose.	1.14	9/10
San Jose State University Improvements	Installation of backup system and connection of the MLK, Jr. Main Library; approx. 500 LF of 6-in. to 8-in. diameter pipe to serve up to 150 AFY to SJSU campus for irrigation and indoor use.	0.79	9/10
Santa Clara Central Park (SC-6)	Approx. 12,000 LF of 8 in. to 16 in. pipe to serve 115 AFY to 52-acre Santa Clara Central Park and adjacent customers	4.20	12/09
Santa Clara Industrial 1	Approx. 3000 LF of 8 inch and 12-inch diameter pipe to serve 300 AFY to data centers and other industrial sites for cooling and irrigation.	0.75	12/09
Santa Clara Industrial 2	Approx. 6500 LF of 12-inch diameter pipe to serve 140 AFY to Santa Clara industrial sites for cooling and irrigation.	1.90	12/09
Santa Clara Industrial 3A	Approx. 14,000 LF of 12-inch diameter pipe to serve 500 AFY to Santa Clara industrial sites for cooling and irrigation.	3.30	9/10
Total Cost of ARRA Projects for Proposed Contract (\$M)		14.78	
Proposed Federal Share (\$M)		6.46	44%
Proposed Local Share (\$M)		8.32	56%

*Finish dates are contingent on timely issuance of NEPA certification by Bureau of Reclamation

Under the terms of the Title XVI program, federal funds are provided on a reimbursement basis with a federal share up to 25% of total expenditures. However, when federal participation in a previously constructed project has not yet reached its maximum authorized level, ARRA funds can be used to reimburse and agency for up to 100% of the cost of its ARRA projects in lieu of appropriations for prior construction reimbursement, provided that the total amount of federal funds received does not exceed 25% of the cost of all authorized Title XVI projects. On the other hand, while ARRA funds can only be used as reimbursement for construction of ARRA projects, Title XVI funds that might be appropriated in future years can be used without restriction. Since the City of San José's existing Agreement with Reclamation has an outstanding federal obligation of approximately \$3.3 million, under the terms of the ARRA appropriation the City is proposing to use the entire \$6.46 million federal award as reimbursement for \$14.78 million in construction projects resulting in federal and local cost shares of 44% and 56% respectively.

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Correspondingly, the City will forgo reimbursement of \$2.77 million for prior work done during the Phase 1A construction that might otherwise be made available through future appropriations. The final terms and conditions of reimbursement will be specified in the Cooperative Agreement.

It should also be noted that, pursuant to Section 1511 of the Recovery Act, the Chief Executive for the City must certify that the project has received the full review and vetting required to ensure compliance with the Recovery Act eligibility requirements and that the project is an appropriate use of taxpayer dollars. In addition, all construction contracts will either be competitively bid or constructed directly by public agencies; in both instances the contractor or agency will be directed to demonstrate compliance with both the Buy American and Davis-Bacon provisions as outlined in the Recovery Act, subject to inspection and monitoring by the managing department. The completed Certification Template attached to this memo details the specific eligibility requirements that apply to this project, and the steps the City will take to meet the various provisions outlined in the Act.

EVALUATION AND FOLLOW-UP

Upon receiving the signed Application for Federal Assistance, the US Bureau of Reclamation will prepare an Assistance Agreement stipulating the amount and percentage of federal funds to be provided for the proposed projects. The completed Cooperative Agreement will be agendized for review and approval by the Treatment Plant Advisory Committee and the San Jose City Council, after which it will be forwarded to the City Manager for execution. Once executed, the City can begin submitting invoices for expenses related to design and construction of designated projects to the Bureau of Reclamation for Reimbursement.

PUBLIC OUTREACH/INTEREST

Each year the City sponsors a number of public events emphasizing the importance of landscape irrigation with recycled water to supplement drinking water supplies in San Jose and the area served by the San Jose/Santa Clara Water Pollution Control Plant. Recently, the City has also held discussions with the business and development community about the need to increase the use of recycled water in industrial, cooling and other indoor applications. In addition, all matters related to the extension of the South Bay Water Recycling system are discussed by the Treatment Plant Advisory Committee representing the interests of all cities and agencies in the tributary of the San Jose/Santa Clara Water Pollution Control Plant.

COORDINATION

This application has been coordinated with the Planning Department and the City Attorney.

FISCAL/POLICY ALIGNMENT

Completion of the subject application is consistent with the City's Green Vision policy, especially Goal #6: Recycle or Beneficially Reuse 100% of Wastewater (100 million gallons per day). It is also consistent with the budgetary goal of increasing revenues and reducing expenditures by taking advantage of opportunities for grant funding.

COST SUMMARY/IMPLICATIONS

The City as lead agency for the San Jose/Santa Clara Water Pollution Control Plant will be responsible for the cost of project design and construction. According to the terms of the

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proposed Assistance Agreement the City will receive \$6.46 million as reimbursement of eligible construction costs of \$14.78 million.

CEQA

Programmatic CEQA approval for construction of South Bay Water Recycling was documented in the "Final Environmental Impact Report for the San Jose Nonpotable Reclamation Project (SCH# 92013071) and subsequent addenda (Council Resolution 64667). In addition, federal programmatic approval was obtained under the provisions of the National Environmental Policy Act (NEPA) in the "Final Environmental Assessment and Finding of No Significant Impact, Revised South Bay Water Recycling Program" (FONSI #97-03-MP). Details of the construction of each project funded under the terms of this Cooperative Agreement will be reviewed and approved under the terms of both the CEQA and NEPA; the US Bureau of Reclamation will serve as lead agency for NEPA approval.


JOHN STUFFLEBEAN
Director, Environmental Services

For questions please contact Mansour Nasser, Deputy Director, Environmental Services at (408)277-2558.

RECOVERY ACT--CERTIFICATION TEMPLATE

PROJECT NAME: South Bay Water Recycling Phase 1C Improvements

Full Review and Vetting

I have reviewed the proposed project(s) documentation to ensure compliance with the Recovery Act eligibility requirements

Appropriate Use of Taxpayer Dollars

Council directed the development of facilities to expand the near-term and long-term use of recycled water in April 1998 through the award of South Bay Water Recycling Phase 2 Expansion Plan. The resultant Plan contained detailed descriptions and conceptual designs of a number of pipeline extensions in San Jose, Santa Clara and Milpitas, many of which have been included in the proposed construction program. Santa Clara Central Park, Santa Clara Industrial 1 and Santa Clara Industrial 3A projects were approved by Council in 2002 in the Fourth and Fifth Amendments to the In-Kind Services Agreement between the cities of Santa Clara and San José. Other projects, including the

San Jose Airport Extension, SBWR Laterals and Garden Improvements, San Jose School Extensions, San Jose San Jose State University Improvements and Santa Clara Industrial 2 Pipeline will be presented to the Treatment Plant Advisory Committee and San Jose City Council for approval prior to the award of bid or authorization of construction. Public Outreach included a number of public events emphasizing the importance of landscape irrigation with recycled water as well as discussions with the business and development community about the need to increase the use of recycled water in industrial, cooling and other indoor applications.

Information Required by Section 1511 concerning each investment

All information required by Section 1511 concerning this project(s) is included in the attached certification and will be available on the City's website www.sanjoseca.gov/recoveryact

Competitive Bids

This project will be publicly bid in accordance with the City's Municipal Code and the City's Standard Specifications or in accordance with the standards adopted by the South Bay Water Recycling In-Kind Services Agreements to be executed between the City of San Jose and the City of Santa Clara, and the City of San Jose and the San Jose State University.

Buy America Preference Requirement (BAPR)

Specifications that comply with the provision that all iron, steel and manufactured goods used for a public building or public work must be produced in the United States, with limited exceptions, are included in the proposed project(s) bid documents.

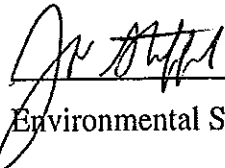
Davis-Bacon Requirement

The City of San Jose will comply with Davis-Bacon prevailing wage requirements. The City's Office of Equality Assurance will ensure that contractors comply and pay their workers the proper wage and benefit rates.

A Notice to Proceed to the Contractor for the Santa Clara Central Park, Industrial 1 and Industrial 2 projects will be issued within 30 days of acceptance of Grant Offer pending NEPA certification by the US Bureau of Reclamation. Additional projects will be awarded as their designs are reviewed and approved by the requisite agencies and authorized by the Treatment Plant Advisory Committee and the San Jose City Council.

DEPARTMENT HEAD

DEPARTMENT



Environmental Services

